

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

)
DON E. BAILEY,

)
Plaintiff,

)
v.

)
BANK OF AMERICA, N.A.,

)
Defendant.

)
CIVIL ACTION NO.:
1:06-cv-03096-CAM

AFFIDAVIT OF BANK OF AMERICA

I, Ruta Karlson, after being duly sworn, state and depose as follows:

1. I am over 21 years of age, of sound mind and memory, and fully competent to give this affidavit.

2. I have been an employee of Bank of America, N.A ("Bank of America") since September 14, 1990. I am currently a bank officer and my position with Bank of America is Senior Operations Representative in the Legal Order Processing Department. I am authorized to execute this Affidavit on behalf of Bank of America.

3. I make this affidavit based on my personal knowledge and a review of the bank records maintained in the ordinary course of business.

4. In my capacity as Senior Operations Representative in the Legal Order Processing Department, I am familiar with the method by which Bank of America's records are prepared and maintained. I have personally reviewed the records relating

to Plaintiff Don E. Bailey's ("Mr. Bailey") individual checking account, account number ****6014 (the "Account").

5. Mr. Bailey opened his Account with Bank of America, on or about November 5, 2005. At the time he opened the Account, Mr. Bailey executed a Personal Signature Card, a true and correct copy of which is attached hereto as Exhibit A.

6. By signing the Signature Card and keeping open the Account, Mr. Bailey agreed that the Account would be governed by the *Deposit Agreement and Disclosures* ("Deposit Agreement"). (See Signature Card.) A true and correct copy of the Deposit Agreement in effect beginning July 1, 2006, is attached hereto as Exhibit B.

7. True and correct copies of the substantively similar versions of the *Deposit Agreement and Disclosures* governing Mr. Bailey's Account from the date it was opened through June 30, 2006 are attached hereto as Exhibit C.

8. The *Schedule of Fees*, attached hereto as Exhibit D, is a true and correct copy of the schedule of fees governing Mr. Bailey's Account as of February 7, 2006.

9. True and correct copies of the substantively similar prior and subsequent versions of the *Schedule of Fees* governing Mr. Bailey's Account from November 2005 through August 2006 are attached hereto as Exhibit E.

10. Each month, from December 2005 through September 2006, Bank of America mailed Account statements to Mr. Bailey's address: 2783 Browntown Road, NW, Atlanta, Georgia 30318. True and correct copies of the November 2005 through August 2006 Account Statements detailing the activity on Mr. Bailey's Account are attached hereto as Exhibit F.

11. As evidenced by the Account Statements, Mr. Bailey withdrew funds and made debit card transactions when he did not have sufficient funds to cover the full amounts of those transactions. (See March 2006 through August 2006 Account Statements.)

12. At no time between March 2006 and the closing of Mr. Bailey's Account did Mr. Bailey deposit sufficient funds into his Account to cover the amount of his overdraft balance and associated fees. (See March 2006 through August 2006 Account Statements.)

13. Bank of America closed Mr. Bailey's Account on April 14, 2003 with a negative balance of -\$275.50.

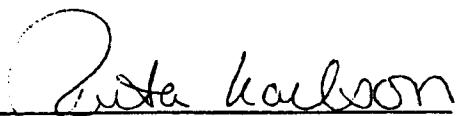
14. Bank of America has no records of any written complaints received directly from Mr. Bailey by Bank of America.

15. Bank of America has no records of any notices from one of the consumer reporting agencies that Mr. Bailey had submitted a complaint about improper

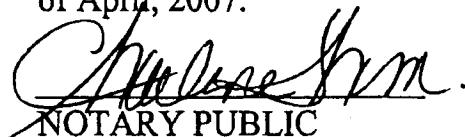
reporting or requested an investigation in connection with the information reported regarding his Account.

16. Bank of America has incurred costs and attorneys' fees in its efforts to collect the money that Mr. Bailey owes to Bank of America because of his negative Account balance; specifically, Bank of America incurred expenses to attempt collection of Mr. Bailey's debt and to hire counsel to bring a claim against Mr. Bailey for the amount of the debt.

This 3 day of April, 2007.


Ruta Karlson
Senior Operations Representative
Legal Order Processing

Sworn to and subscribed
before me this 3 day
of April, 2007.


NOTARY PUBLIC

